

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

2006 JAN -5 P 12:37

UNITED STATES OF AMERICA,

v.

ROY TERRY

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DEBRA P. HACKETT, CLK.
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA.

CASE NO. 3:05-CR-00141-MEF-CSC

AMENDED MOTION TO CONTINUE SENTENCING

COMES NOW the Defendant Roy Terry by and through his counsel and files this Amended Motion to Continue Sentencing date and states as follows:

1. The Defendant's attorney received a copy of the presentence report on Tuesday, January 2, 2006.

2. The presentence report contained some 186 paragraphs, over 32 pages and contains numerous references to dates, victims and monetary amounts.

3. The Defendant needs additional time to review the presentence report with his attorney, compare the information to documents and to otherwise evaluate the factual averments of the presentence report.

4. Pursuant to Section 2B1.1 of the Guidelines, the amount of any loss may be reduced by "...collateral pledged or otherwise provided by the Defendant, the amount the victim has recovered at the time of sentencing from disposition of the collateral, or if the collateral has not been disposed of

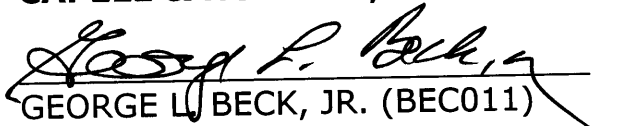
by that time, the fair market value of the collateral at the time of sentencing." Unfortunately, as of the date of the presentence report it was not possible to obtain the fair market value of any pledged collateral. It was unduly prejudice the Defendant to conduct the presentence hearing without first obtaining this vital information. The Defendant is convinced that the fair market value of the assets pledged, including pending lawsuits by various creditors, including the trustee, if successful, would substantially reduce the amount of loss. The Defendant has cooperated with the trustee and various other creditors in obtaining funds and collateral that can be used to reduce the amount of the loss. It would be unjust not to allow the Defendant a postponement of the sentencing date until the fair market value of such collateral or receipts has been established.

PREMISES CONSIDERED, the Defendant respectfully requests that the sentencing hearing scheduled for January 20, 2006, be continued generally pending a report on the fair market value of the property and an opportunity for the Defendant to review all aspects of the presentence report.

Respectfully submitted this the 5th day of January 2006.

CAPELL & HOWARD, P.C.

By:


 GEORGE L. BECK, JR. (BEC011)
 150 South Perry Street
 Post Office Box 2069
 Montgomery, AL 36102-2069
 Phone: 241-8000
 Fax: 241-8262

CERTIFICATE OF SERVICE

I hereby certify that I have served a true copy of the foregoing instrument upon the following individual(s), properly addressed, by placing same in the United States Mail, first-class, postage prepaid, on this the 5 day of January 2006.

Andrew O. Schiff, Esq.
Assistant U.S. Attorney
P.O. Box 197
Montgomery, AL 36101-0197

Mr. Doug Mathis
United States Probation Office
Post Office Box 39
Montgomery, AL 36101

By: 
GEORGE L. BECK, JR. (BEC011)